

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>In re:</b>  <b>KIEBLER RECREATION, LLC</b>  <b>Debtor.</b>	) ) ) <b>Case No. 10 - 15099</b> ) <b>Chapter 11</b> ) ) <b>Judge Randolph Baxter</b> )
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**JOINDER BY OFFICIAL COMMITTEE OF UNSECURED CREDITORS IN  
DEBTOR'S OBJECTION TO MOTION TO TRANSFER VENUE**

The Official Committee of Unsecured Creditors of Kiebler Recreation, LLC (the “Committee”), by and through its undersigned proposed counsel, hereby joins (the “Joinder”) in the *Debtor’s Objection to Motion to Transfer Venue* (“Debtor’s Objection”) to the *Motion of The Huntington National Bank to Transfer Venue to the United States Bankruptcy Court for the Western District of New York Pursuant to 28 U.S.C. § 1412* [Docket No. 56] (the “Transfer Motion”).

This bankruptcy case should not be transferred to the United States Bankruptcy Court for the Western District of New York because venue is proper in this Court. *See* 11 U.S.C. § 1408(2). The Huntington National Bank (“Huntington”) admits that the venue of this bankruptcy case is proper. *See Transfer Motion*, ¶ 15. Many courts have recognized that a presumption exists in favor of the venue selected by the debtor if the venue is considered proper. *See e.g. In re Enron Corp.*, 274 B.R. 327, 342 (Bankr. S.D.N.Y. 2002); *see also Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 255-56 (1981) (“there is ordinarily a strong presumption in favor of the plaintiff’s choice of forum”). Furthermore, some courts have noted that “the decision to transfer should be exercised cautiously where a case is commenced in the proper venue.” *See In re Weatherly Frozen Food Group, Inc.*, 133 B.R. 862, 865 (Bankr. N.D. Ohio 1991) (citing *In re*

*Pope Vineyards*, 90 B.R. 252, 258 (Bankr. S.D. Tex. 1988)). For this reason alone, Debtor's Objection to the Transfer Motion should be sustained.

In addition, for the reasons stated in the Debtor's Objection, Huntington has failed to demonstrate clear and compelling circumstances warranting a transfer. *See In re LaGuardia Assocs., L.P.*, 316 B.R. 832 (Bankr. E.D. Pa. 2004) (party requesting transfer of venue bears the burden of persuasion).

The brevity of this response should not be construed as any lack of conviction. The denial of Huntington's *Motion to Transfer Venue* is critical to the preservation of value for this estate and the efficient administration of this case. Huntington's Motion should be denied.

The Committee reserves the right to amend or supplement this Joinder, in response to further filings by Huntington or otherwise.

June 23, 2010

Respectfully submitted by:

Daniel A. DeMarco

Daniel A. DeMarco (0038920)

Christopher B. Wick (0073126)

Hahn Loeser & Parks LLP

200 Public Square, Suite 2800

Cleveland, Ohio 44114

Telephone: (216) 621-0150

Facsimile: (216) 241-2824

E-Mail: dademarco@hahnlaw.com

cwick@hahnlaw.com

*Proposed Attorneys for the Official Committee  
of Unsecured Creditors*

**CERTIFICATE OF SERVICE**

A true and correct copy of the foregoing Joinder was served on this 23rd day of June, 2010 upon the parties identified on the attached Service List by the method indicated.

Daniel A. DeMarco

*One of the Attorneys for the Official Committee of  
Unsecured Creditors*

## SERVICE LIST

The following parties were served by the Court's electronic noticing system:

- Lawrence C Bolla lbolla@quinnfirm.com,  
mboni@quinnfirm.com;dcornelius@quinnfirm.com;schermack@quinnfirm.com
- Carrie M Brosius cmbrosius@vorys.com, mborr@vorys.com
- Daniel A DeMarco dademarco@hahnlaw.com, hlpcr@hahnlaw.com
- Stephen A. Donato sdonato@bsk.com,  
kdoner@bsk.com;tayers@bsk.com;tvanetti@bsk.com
- Robert C Folland rob.folland@thompsonhine.com
- Joseph D. Frank jfrank@fgllp.com, ccarpenter@fgllp.com
- Ingrid S. Palermo ipalermo@bsk.com,  
kdoner@bsk.com;jgray@bsk.com;tvanetti@bsk.com
- Drew T Parobek dtparobek@vorys.com
- United States Trustee (Registered address)@usdoj.gov
- Andrew L. Turscak andrew.turscak@thompsonhine.com
- Mark A. Weintraub Mark.Weintraub@ThompsonHine.com
- Joseph Zagraniczny jzagraniczny@bsk.com,  
kdoner@bsk.com;amasica@bsk.com;tvanetti@bsk.com

The following parties were served by United States Mail, postage prepaid:

Kiebler Recreation, LLC  
10823 Mayfield Road  
Chardon, OH 44024

The Huntington National Bank  
c/o Bond, Schoeneck & King,  
PLLC  
Attn: Joseph Zagraniczny, Esq.  
One Lincoln Center  
Syracuse, NY 13202

Acushnet Company  
PO Box 965  
Fairhaven MA 02719

Assessment Evaluation Inc  
800 State St  
#400  
Erie PA 16507

EMPIRE MERCHANTS  
NORTH  
PO BOX 10  
COXSACKIE NY 12051

GMAC  
P O Box 130424  
Roseville, MN 55113

General Electric Capital  
Corporation  
Attn: LMG Department  
300 E John Carpenter Frwy, Ste.  
207  
Irving, TX 75062

Golfer's Lifestyle Magazine, Inc.  
c/o Aaron, Dautch, Sternberg &  
Lawson, L  
43 Court Street, Suite 730  
Buffalo, NY 14202

Golfers Lifestyle Magazine Inc  
%Aaron Dautch  
Sternberg&Lawson LLP  
430 Court St  
#730  
Buffalo NY 14202

Maplevale Farms Inc  
8956 West Main St  
Clymer NY 14724

New York State Department of  
Taxation and Finance  
Bankruptcy Section  
P.O. Box 5300  
Albany, NY 12205-0300

PNC Bank, National Association  
c/o Carrie M. Brosius, Esq.  
Vorys, Sater, Seymour and Pease  
LLP  
2100 One Cleveland Cntr, 1375 E  
9th St  
Cleveland, OH 44114-1724

PNC Bank, National Association  
c/o Drew T. Parobek  
Vorys, Sater, Seymour and Pease  
LLP  
2100 One Cleveland Cntr, 1375 E  
9th St  
Cleveland, OH 44114-1724

R.W. Larson Associates, P.C.  
c/o GETMAN & BIRYLA, LLP  
800 Rand Building  
14 Lafayette Square  
Buffalo, New York 14203-1995

Raquel Cross  
Executrix of the Estate of Eugene  
Cross  
c/of Lawrence C. Bolla, Esquire  
The Quinn Law Firm  
2222 West Grandview Blvd.  
Erie, PA 16506

The CIT Group/Commercial  
Services Inc.  
11 West 42nd Street  
New York, NY 10036

Time Warner Cable Media Sales  
(3689)  
c/o Szabo Associates, Inc.  
3355 Lenox Road NE, 9th Floor  
Atlanta, GA 30326

Vincent Cross  
Executor of the Estate of Norbert  
Cross  
c/of Lawrence C. Bolla, Esquire  
The Quinn Law Firm  
2222 West Grandview Blvd.  
Erie, PA 16506

Andrew L. Turscak Jr.  
3900 Key Center  
127 Public Square  
Cleveland, OH 44114

Mark A. Weintraub  
3900 Key Center  
127 Public Square  
Cleveland, OH 44114

Robert C Folland  
Thompson Hine LLP  
127 Public Sq  
3900 Key Center  
Cleveland, OH 44114-121